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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,262	04/26/2006	Richard Earl Jones	PU030299	4798

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EXAMINER	
TOPGYAL, GELEK W	

ART UNIT	PAPER NUMBER
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/577,262	JONES, RICHARD EARL	
	Examiner	Art Unit	
	GELEK TOPGYAL	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 December 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/18/2009 has been entered.

Response to Arguments

2. Applicant's arguments filed 12/18/2009 have been fully considered but they are not persuasive. In re pages 5-7, the applicants focus is primarily on the limitation of "enabling recording of said first audio component as stereo audio components when only said first audio component is contained in said signal and it is determined that the first audio component was received as a stereo left and right audio components". In arguing, the applicants first assert that Moon fails to teach the above limitation and that Moon's system does not have the ability to determine whether the signal contain only a primary audio component. Further, the applicants argue that Murase's system does not allow for any analysis of the signal to determine whether it includes a second audio content (which is the newly added limitation to the independent claims).

3. In response, the examiner respectfully disagrees. Firstly to address the newly added limitation of "determining whether the signal includes a second audio component", the system of Moon is capable of recording a signal that includes only a

primary signal and a signal that contains both a primary and a secondary signal (see Fig. 3). As previously stated in page 2 of the Final Office action dated 10/5/2009, the system of Moon has to detect the existence of two separate streams (secondary audio component) in order for the system to be able to differentiate between the different audio recording methods in Fig. 3. As a matter of fact, Moon does not always assume a sub-audio data stream exists, there exists situations where only a primary data stream is recorded (thereby detected) as discussed in the rejection of claims 4 and 6 in the Final Office action. Furthermore, in reference to the assertion that Murase's system does not allow for analysis of the signal to determine the existence of a second audio content, the examiner respectfully disagrees. Firstly, as stated in the rejection below, Murase is not relied upon to teach that particular limitation. However, it should be noted that Murase's system, just like Moon is capable of recording a primary audio stream and also is capable of recording two audio streams (see Figures 42-45). The capability to detect the incoming stream as having a primary or a primary and a secondary audio stream is also discussed in claims 1 and 3 of Murase.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon et al. (US 6,813,281) in view of Murase et al. (US 6,611,655).

Regarding claims 1 and 13, Moon et al. teaches a method comprising the steps of: receiving audio components of a signal (col.3 , lines 46-54 teaches of a recorder that is able to record/reproduce a broadcast video signal); determining whether the signal includes a second audio program (Fig. 3, last example and col. 3, lines 46-54 teaches the industry standard of recording a first CH0 data and a second CH1 data as separate mono streams. In order for the system to be able to record the audio data as two separate streams it has to detect the existence of two separate streams); enabling recording of a first audio component of said signal as a mono audio component and recording a second audio component of said signal as a second mono audio component if it is determined that the signal includes the second audio component (Fig. 3, last example and col. 3, lines 46-54 teaches of recording a first CH0 data and a second CH1 data as separate mono streams. In order for the system to be able to record the audio data as two separate streams it has to detect the existence of two separate streams); and

Moon's system allows for the recording of an incoming primary stream as a two different channels (Fig. 3, 2ch DATA stored as LEFT AUDIO and RIGHT AUDIO). However, Moon et al. fails to particularly teach the step of enabling recording of said first audio component as stereo audio components when only said first audio component is contained in said signal and it is determined that the first audio component was received as a stereo left and right audio components.

Murase et al. teaches in claim 2, col. 5, lines 27-49 and col. 6, lines 1-21 of the ability to detect whether an AV stream includes an audio stream that is of "stereo audio data having a first audio channel data and second audio channel data, which are simultaneously reproduced". The AV stream is further recorded onto the optical recording medium. Murase et al. discloses an example in which the steps are explicitly described, however, it should be noted that this step of determining the existence of a stereo left and right channels are standard in the industry for merely recording a Stereo audio signal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ability to detect the existence of a stereo left and right and to record an audio component as a stereo audio component as taught by Murase et al. into the system of Moon et al. so that a user can listen to two separate channels that correlate to each other in the same timeline.

Regarding claim 2, Moon et al. teaches the claimed wherein said first audio component comprises a primary audio component of a video program content (col. 1, lines 31-37 and col. 3, lines 32-37 teaches of broadcasting video with several audio components).

Regarding claim 3, Moon et al. teaches the claimed wherein said second audio component comprises a secondary audio program content (col. 1, lines 31-37 and col. 3, lines 32-37 teaches of broadcasting video with several audio components).

Regarding claim 4, Moon et al. teaches the claimed wherein further comprising the step of enabling recording of said first audio component as a mono audio

component when only said first audio component is contained in said signal, said first audio component being a mono audio component (As similarly discussed in claim 1 above, Fig. 3 teaches of 1ch DATA being recorded as a mono audio stream).

Regarding claim 5, Moon et al. teaches the claimed wherein when each of said first and said second audio components are recorded, they are recorded as encoded mono audio streams (col. 3 ,lines 46-64 teaches that the first and second audio components are encoded and recorded as CH0 and CH1 audio data).

Regarding claim 6, Moon et al. teaches the claimed wherein when only said first audio component is available from said signal, said first audio component is then recorded as a mono encoded stereo stream (As similarly discussed in claim 1 above, Fig. 3 teaches of 1ch DATA being recorded as a mono audio stream).

Apparatus claims 7-12 are rejected for the same reasons as discussed above in method claims 1-6, respectively.

Method claim 14 is rejected for the same reasons as discussed in claim 4 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GELEK TOPGYAL whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gelek Topgyal/
Examiner, Art Unit 2621

/JAMIE JO ATALA/

Primary Examiner, Art Unit 2621